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06 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

07 UNITED STATES OF AMERICA,)
08)
09 Plaintiff,) Case No. 06-103 JPD
10 v.)
11 FRANK BENTLEY HILLIARD V,) ORDER DENYING MOTION TO REVIEW
12 Defendant.) DETENTION ORDER
_____)

13 The defendant has pleaded guilty to a misdemeanor charge of bank larceny, in violation
14 of 18 U.S.C. § 2113 (b) and (2). He is in custody, awaiting sentencing, which is currently
15 scheduled for February 6, 2006. He was arrested on March 13, 2006, and ordered detained
16 pending trial. He pleaded guilty to the misdemeanor charge on March 24, 2006. On May 5,
17 2006, he was released on bond. He then absconded from supervision, which resulted in his re-
18 arrest on August 25, 2006. He was ordered detained pending sentencing, which was then
19 scheduled for September 8, 2006.

20 The defendant and government have filed a joint motion asking that the detention order
21 be reopened pursuant to 18 U.S.C. § 3142 (f). Dkt. No. 79. The thrust of the argument is that
22 because the sentencing dates have been continued on three occasions, the Court should
23 reconsider the detention order.

24 Under 18 U.S.C. § 3142(f), a detention hearing can be reopened at any time before trial
25 if the Court finds that “information exists that was not known to the movant at the time of the
26 hearing and that has a material bearing on the issue whether there are any conditions of release


01 that will reasonably assure the appearance of the person as required and the safety of any other
02 person and the community.”

03 In this case, the proffered change of circumstances are the delays in sentencing, for
04 which the defendant has agreed. The concern expressed in the motion is that if the trial for
05 which he is expected to testify is delayed again, he may serve more time in custody awaiting
06 sentencing than the statutory maximum.

07 The joint motion is denied. The defendant will not exceed the statutory maximum if he
08 is sentenced as currently scheduled. If the case for which he is scheduled to testify is continued
09 again, then the defendant may re-apply to reopen the proceedings.

10 The motion to reopen the detention hearing (Dkt. No. 79) is denied.

11 DATED this 13th day of December, 2006.

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15 JAMES P. DONOHUE
16 United States Magistrate Judge
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